

AMENDED IN ASSEMBLY JUNE 28, 2005

SENATE BILL

No. 538

Introduced by Senator Kuehl

February 18, 2005

An act to amend Sections 4616 and 4616.7 of, and to add Section 4616.8 to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Kuehl. Workers' compensation: medical provider networks: accountability.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

Existing law authorizes an employer or insurer to establish or modify a medical provider network for the provision of medical treatment to injured employees, and to submit a medical provider network plan to the administrative director for approval.

This bill would require a medical provider network to demonstrate, in a manner determined by the administrative director, that it has the organizational and administrative capacity to provide services to covered employees, ~~and. The bill would require a medical provider network, by July 1, 2006, to establish a quality assurance committee to perform various functions relating to quality of care. The bill would also impose, and to comply with additional requirements regarding the composition of a network, and. The bill would require reapproval of a network every 3 years.~~

Existing law requires that a health care organization be deemed approved as a medical provider network if it meets the percentage required for physicians primarily engaged in nonoccupational

medicine and all the other requirements are met, as determined by the administrative director.

This bill would require a health care organization to demonstrate that the estimated number of covered employees within a proposed medical provider network plan that utilizes the health care organization's provider network, when combined with the number of employees already covered by the health care organization at the time of application for approval as a medical provider network, does not exceed the health care organization's capacity to provide services, as determined by the administrative director.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as
2 the Occupational Healthcare Accountability Act.

3 SEC. 2. Section 4616 of the Labor Code is amended to read:

4 4616. (a) (1) On or after January 1, 2005, an insurer or
5 employer may establish or modify a medical provider network
6 for the provision of medical treatment to injured employees. The
7 network shall include physicians primarily engaged in the
8 treatment of occupational injuries and physicians primarily
9 engaged in the treatment of nonoccupational injuries. The goal
10 shall be at least 25 percent of physicians primarily engaged in the
11 treatment of nonoccupational injuries. The administrative
12 director shall encourage the integration of occupational and
13 nonoccupational providers. The number of physicians in the
14 medical provider network shall be sufficient to enable treatment
15 for injuries or conditions to be provided in a timely manner. The
16 provider network shall include an adequate number and type of
17 physicians, as described in Section 3209.3, or other providers, as
18 described in Section 3209.5, to treat common injuries
19 experienced by injured employees based on the type of
20 occupation or industry in which the employee is engaged, and the
21 geographic area where the employees are employed.

22 (2) The medical provider network shall demonstrate, in a
23 manner determined by the administrative director, that it has the
24 organizational and administrative capacity to provide services to
25 covered employees.

1 (3) Medical treatment for injuries shall be readily available at
2 reasonable times to all employees. To the extent feasible, all
3 medical treatment for injuries shall be readily accessible to all
4 employees. With respect to availability and accessibility of
5 treatment, the administrative director shall consider the needs of
6 rural areas, specifically those in which health facilities are
7 located at least 30 miles apart.

8 (b) The employer or insurer shall submit a plan for the medical
9 provider network to the administrative director for approval. The
10 administrative director shall approve the plan if he or she
11 determines that the plan meets the requirements of this section. If
12 the administrative director does not act on the plan within 60
13 days of submitting the plan, it shall be deemed approved.

14 (c) Physician compensation may not be structured in order to
15 achieve the goal of reducing, delaying, or denying medical
16 treatment or restricting access to medical treatment.

17 (d) If the employer or insurer meets the requirements of this
18 section, the administrative director may not withhold approval or
19 disapprove an employer's or insurer's medical provider network
20 based solely on the selection of providers. In developing a
21 medical provider network, an employer or insurer shall have the
22 exclusive right to determine the members of their network.

23 (e) All treatment provided shall be provided in accordance
24 with the medical treatment utilization schedule established
25 pursuant to Section 5307.27 or the American College of
26 Occupational Medicine's Occupational Medicine Practice
27 Guidelines, as appropriate.

28 (f) No person other than a licensed physician who is
29 competent to evaluate the specific clinical issues involved in the
30 medical treatment services, when these services are within the
31 scope of the physician's practice, may modify, delay, or deny
32 requests for authorization of medical treatment.

33 (g) On or before November 1, 2004, the administrative
34 director, in consultation with the Department of Managed Health
35 Care, shall adopt regulations implementing this article. The
36 administrative director shall develop regulations that establish
37 procedures for purposes of making medical provider network
38 modifications.

39 SEC. 3. Section 4616.7 of the Labor Code is amended to
40 read:

1 4616.7. (a) (1) A health care organization certified pursuant
2 to Section 4600.5 shall be deemed approved pursuant to this
3 article if it meets the percentage required for physicians primarily
4 engaged in nonoccupational medicine specified in subdivision (a)
5 of Section 4616 and all the other requirements of this article are
6 met, as determined by the administrative director.

7 (2) A health care organization providing health care services
8 pursuant to this section shall demonstrate that the estimated
9 number of covered employees within a proposed medical
10 provider network plan that utilizes the health care organization's
11 provider network, when combined with the number of employees
12 already covered by the health care organization at the time of
13 application for approval pursuant to this article, does not exceed
14 the health care organization's capacity to provide services, as
15 determined by the administrative director.

16 (b) A health care service plan, licensed pursuant to Chapter 2.2
17 (commencing with Section 1340) of Division 2 of the Health and
18 Safety Code, shall be deemed approved for purposes of this
19 article if it has a reasonable number of physicians with
20 competency in occupational medicine, as determined by the
21 administrative director.

22 (c) A group disability insurance plan, as defined in subdivision
23 (b) of Section 106 of the Insurance Code, that covers hospital,
24 surgical, and medical care expenses shall be deemed approved
25 for purposes of this article if it has a reasonable number of
26 physicians with competency in occupational medicine, as
27 determined by the administrative director. For the purposes of
28 this section, a group disability insurance policy shall not include
29 Medicare supplement, vision-only, dental-only, and
30 Champus-supplement insurance. For purposes of this section, a
31 group disability insurance policy shall not include hospital
32 indemnity, accident-only, and specified disease insurance that
33 pays benefits on a fixed benefit, cash-payment-only basis.

34 (d) Any Taft-Hartley health and welfare fund shall be deemed
35 approved for purposes of this article if it has a reasonable number
36 of physicians with competency in occupational medicine, as
37 determined by the administrative director.

38 SEC. 4. Section 4616.8 is added to the Labor Code, to read:

39 4616.8. (a) The medical provider network shall provide
40 substantiated projections of the number of covered employees for

1 which the medical provider network will be responsible for
2 health care services including the locations within and around
3 covered employees' places of work and residence.

4 (b) The medical provider network shall provide at least one
5 full-time equivalent primary treating physician within the
6 geographical proximity specified in subdivision (a) for every
7 3,600 covered employees. The medical provider network shall
8 provide information regarding the methodology, data, and
9 assumptions used in its calculations that demonstrate compliance
10 with this section.

11 (c) The medical provider network shall employ or contract for
12 the services of at least one full-time equivalent, board-certified
13 occupational medicine physician to provide expertise directly to
14 the medical provider network on workplace health and safety
15 issues and prevention and treatment of occupational injuries and
16 illnesses.

17 (d) (1) A medical provider network shall include a written
18 program designed to ensure a level of care for occupational
19 injuries and illnesses, which meets professionally recognized
20 standards of care. The program shall be designed and directed by
21 providers who serve as members of the medical provider
22 networks' quality assurance committee, to document that the
23 quality of care provided is reviewed, that problems are identified,
24 that effective action is taken to improve care where deficiencies
25 are identified, that followup measures are planned where
26 indicated, and that all of the requirements of this division are
27 met. The program shall demonstrate that the medical provider
28 network's utilization review activities are designed to improve
29 the quality of care provided.

30 (2) The medical provider network quality assurance committee
31 shall meet on at least a quarterly basis or more frequently if
32 problems have been identified, to oversee its quality assurance
33 program responsibilities. Reports to the medical provider
34 network's governing body shall be sufficiently detailed to
35 include findings and actions taken as a result of the quality
36 assurance program and to identify those internal or contracting
37 provider components, which the quality assurance program had
38 identified as presenting significant or chronic quality of care
39 issues.

1 (3) The medical provider network shall establish a quality
2 assurance program to monitor and evaluate the care provided by
3 each contracting provider group or facility. Medical groups or
4 other provider entities may also have active quality assurance
5 programs. However, the medical provider network shall retain
6 responsibility for reviewing the overall quality of care delivered
7 to covered employees. To the extent that the medical provider
8 network quality assurance responsibilities are delegated within
9 the medical provider network or to a contracting provider or
10 facility, the medical provider network shall provide evidence of
11 an oversight mechanism for ensuring that delegated quality
12 assurance functions are adequately performed.

13 (4) Physicians shall be an integral part of the quality assurance
14 program. Design and implementation of the quality assurance
15 program shall be supervised by physicians designated by the
16 medical provider network. Physician participation in quality
17 assurance activities shall be adequate to monitor the full scope of
18 clinical services rendered, resolve problems, and ensure that
19 corrective action is taken when indicated. Specialist providers
20 shall also be involved in peer review of like specialties.

21 (e) Approval as a medical provider network pursuant to
22 Section 4616 shall be for no more than three years from the
23 original date of approval by the administrative director or if the
24 medical provider network was deemed approved pursuant to
25 subdivision (b) of Section 4616, no more than three years from
26 the date of deemed approval, at which time the medical provider
27 network shall apply for reapproval.

28 (f) *A medical provider network shall comply with the*
29 *requirements of this section and any regulations adopted*
30 *pursuant to this section by July 1, 2006.*